



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation on November 25, 1998

NOTICE OF ACTION TAKEN -- DOCKET OST 98-4329

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Applicant: TRANSLUX INTERNATIONAL AIRLINES SA d/b/a CARGO LION Date Filed: August 13, 1998

Relief requested: Exemption from 49 USC section 41301 to permit the applicant to conduct all-cargo charter operations between the United States and any point or points.

If renewal, date and citation of last action: New authority.

Applicant representative(s): Allan I. Mendelsohn, 202-778-1233

Responsive pleadings: None.

DISPOSITION

Action: Approved.

Action date: November 25, 1998

Effective dates of authority granted: November 25, 1998, through November 25, 1999.

Basis for approval: United States-Luxembourg Air Transport Agreement, as amended (Agreement). 1/

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated:

X Standard exemption conditions

Special conditions/Partial grant/Denial basis/Remarks: The authority granted is subject to the terms, conditions and limitations of the Department's regulations governing charters; however, we determined, taking into account the terms of the U.S.-Luxembourg Agreement (under which Translux is designated), that it is in the public interest to grant (sua sponte) Translux a waiver under 14 CFR 212.12 from the requirement of 14 CFR 212.9(b)(1) that the carrier obtain our prior approval before operating Fifth-Freedom cargo charters that are encompassed under the Agreement, for the duration of this exemption authority. (In this regard, see Application of Pacific International Airlines, Docket OST-98-4264, Notice of Action Taken issued August 27, 1998.) Also, we found, based on the record of this case and the companion application for a foreign air carrier permit in Docket 50361, that Translux is operationally and financially qualified to conduct its proposed operations and is properly licensed by its government.

The record in this case shows that certain citizens of countries other than Luxembourg have a significant interest in the applicant. 2/ In view of our bilateral relationship with Luxembourg and the particular facts of this case, we, however, deemed it appropriate to waive, to the extent necessary to grant the authority requested, our normal requirements that a foreign air carrier be substantially owned and effectively controlled by citizens of its licensing homeland. In taking this action, we found that there was nothing in the ownership and control of Translux that would be inimical to U.S. aviation policy or interests.

1/ The most recent amendments to the U.S.-Luxembourg Agreement became provisionally effective on July 21, 1998.

2/ Translux states that it has two main people in its corporate structure, brothers Bertram Pohl and Rainald Pohl. Bertram Pohl, a citizen of Switzerland, is president and owns 41% of the company's stock. Rainald Pohl, a citizen of Germany, owns 49% of the stock. Five other people are in Translux's corporate structure: two are citizens of the United Kingdom; two are citizens of Canada; and one is a citizen of Iceland.

Finally, the FAA had advised us that it knows of no reason to withhold this operating authority.

Action taken by: Paul L. Gretch, Director
Office of International Aviation

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) immediate action was required and was consistent with Department policy; (2) the applicant was qualified to perform its proposed operations; (3) grant of the authority was consistent with the public interest; and (4) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted/deferred/dismissed, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

*An electronic version of this document is available on the World Wide Web at:
<http://dms.dot.gov/general/orders/aviation.html>.*